

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

February 12, 2003

Docket No. 2003-92

Public Utilities Commission
Delegation Order (USF Surcharge)

DELEGATION ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we delegate additional limited authority to the Director of Technical Analysis to approve rate schedules for USF surcharges to retail customers that bear an effective date prior to the date of approval.

II. DISCUSSION

Several contributors to the USF have raised an issue about the timing of their contributions to the USF and their ability to collect the money they must contribute from their own customers through the surcharge that is authorized by Chapter 288. If those events are too close together, contributors claim that there needs to be a mechanism (e.g., a slightly higher surcharge) for them to recover what is known as “working capital.” The Commission Staff has recommended, and we agree, that it is preferable to adjust the timing of these events so that contributors may impose the surcharge on their customers sufficiently far in advance of the date they must contribute that there is no need for a working capital adjustment. Accordingly, the Staff plans to send a letter to all potential contributors suggesting that they file rate schedules containing the USF surcharge as soon as possible. The letter will state that a surcharge that becomes effective for service rendered on or after March 1, 2003 or that applies to bills issued on or after April 1, 2003 will be acceptable and approved.

In a Delegation Order issued on January 30, 1997 in Docket No. 97-028, we delegated authority to the Director of Technical Analysis to approve rate schedule and terms and conditions (tariff) changes by local exchange carriers, provided that the change did not constitute a “general rate case” as defined by 35-A M.R.S.A. § 307. We also delegated authority to approve tariff changes for all carriers on notice of less than 30 days, provided that a carrier demonstrated good cause.¹ Finally, we delegated

¹ Authority to approve any tariff change by a competitive interexchange carrier was contained in a Delegation Order issued on July 30, 1996 in Docket No. 96-442, but that order did not contain authority for the Director to approve tariff changes on less than 30 days’ notice.

authority to approve tariff changes that would be effective prior to the date of approval pursuant to our authority to do so under 35-A M.R.S.A. § 309(2),² but this authority was limited to tariff changes that constituted a rate decrease.

Because there is only a short time period available for contributors to file rate schedule pages, we believe it is necessary to delegate authority to the Director of Technical Analysis to approve rate schedules that are effective prior to the approval date. This delegation is solely for rate schedules for the USF surcharge authorized by the USF Rule and shall only apply to surcharges that apply to service rendered on and after March 1, 2003 (or any later date) or for bills for monthly service issued on or after April 1, 2003. That the rate schedule is for a USF surcharge and cannot reasonably be approved prior to its effective date shall constitute automatic good cause under 35-A M.R.S.A. § 307 for approval on notice of less than 30 days.

Accordingly, pursuant to authority under 35-A M.R.S.A. § 107(4) to delegate powers and duties of the Commission to the Commission Staff, we

D E L E G A T E

to the Director of Technical Analysis, the authority, under 35-A M.R.S.A. § 309(2), to approve changes to rate schedules containing a universal service fund surcharge authorized by Chapter 288, § 5(B) that become effective prior to the date of approval, if said surcharges apply to service rendered on and after March 1, 2003 (or any later date) or to bills issued on or after April 1, 2003 (or any later date), provided that no portion of those bills apply to service rendered prior to March 1, 2003. All rate schedules that the Director may approve pursuant to this Order for service rendered prior to the effective date of the approval must be filed no later than one month following the proposed first date of applicability, but in any event prior to May 1, 2003. This delegation terminates after May 1, 2003. The filing of a rate schedule described in this Paragraph shall constitute automatic good cause under 35-A M.R.S.A. § 307 for approval on notice of less than 30 days. The delegation in this Order does not affect delegations previously ordered in Docket Nos. 96-442 and 97-028 to approve rate schedules containing USF surcharges for service rendered after the effective date of such rate schedules.

² 35-A M.R.S.A. § 309(2) states:

2. Exception. Notwithstanding subsection 1, when a public utility changes its rates, tolls or charges pursuant to any provision of this Title, the commission may for billing purposes, order that the change be applied to some or all service reflected in meter readings on or after the effective date of the change, or to such other period as it determines just and reasonable.

Dated at Augusta, Maine, this 12th day of February, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21** days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.